

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In Re :)	Case No. 10-37945
Jennifer L. Kubly)	Judge Richard Speer
)	
)	<u>MOTION FOR RELIEF</u>
)	<u>FROM JUDGMENT</u>
)	John J. Hunter, Jr. (0034602)
		HUNTER & SCHANK CO., LPA
)	One Canton Square
		1700 Canton Avenue
)	Toledo, OH 43604
		Telephone: (419) 255-4300
)	Facsimile: (419) 255-9121
)	Counsel for Creditor Lease and Rental
		Management d/b/a Auto Loan

Now comes Lease and Rental Management d/b/a Auto Loan, by and through counsel and respectfully moves this Court for an order vacating the Order entered on March 7, 2011 [Doc. 15], granting Debtor's Motion to Request Clear Title.

The Debtor previously filed a Motion to Request Clear Title asserting that Auto Loan, the "Motion", a secured creditor herein, was in fact an unsecured creditor. After receipt of the Motion, Auto Loan contacted the attorney for the Debtor and provided written information, including the current title for the automobile of the Debtor making

clear that the lien of Auto Loan was noted on the title as of the date of the filing of the Petition and as required under the Ohio Revised Code. A true copy of the correspondence to counsel is appended hereto as Exhibit 1. Auto Loan mistakenly believed that the issue was going to be resolved and did not timely file a response to the Motion and the Court entered an Order granting the Motion.

Auto Loan would state that it has a first priority lien on the 2004 Chevrolet Venture, VIN# 1GNDL03E24D187722 (the "Vehicle") and as can be see from the attached there is no question that such lien was properly noted on the face of the title to the Vehicle as of the date of filing. Further, as can be seen from the attached, prior to the deadline for filing any objection to the Motion Auto Loan contacted counsel for the Debtor via telephone and facsimile regarding the matters set forth in the Motion. It is further clear that only through clerical error of the Ohio BMV the Debtor had a previously issued title to the Vehicle that did not reflect the lien of Auto Loan. It is however equally clear that the valid title to the Vehicle as of the petition date noted the lien of Auto Loan and the Debtor was not entitled to the relief sought in the Motion.

WHEREFORE, Lease and Rental Management d/b/a Auto Loan respectfully requests this Court enter an order vacating the judgment entered in this matter granting Ms. Kubly clear title to the 2004 Chevrolet Venture.

Respectfully submitted,

/s/ John J. Hunter, Jr.

Counsel for Creditor

Lease and Rental Management d/b/a
Auto Loan

**CERTIFICATE OF SERVICE AND NOTICE OF
OPPORTUNITY TO OBJECT**

Please take note that Auto Loan filed a Motion for Relief from Judgment. Any objection to such Motion must be filed within 21 days from the date of service of this Certificate of Service, or within such other time as may be ordered by the Court, and served on the Movant c/o John J. Hunter, Jr., Hunter & Schank Co., L.P.A., One Canton Square, 1700 Canton Avenue, Toledo, OH 43604-1378 and all persons entitled to notice.

Your response must state with particularity the reasons that the Motion is opposed. If you do not object to the Motion the Court may grant the relief that has been requested without further notice and no hearing will be held.

I hereby certify that a copy of this Motion was sent to the persons listed below by ordinary U.S. Mail, postage prepaid, or by electronic transmission to those persons capable of being served by ECF on the 17th day of March, 2011.

Patti Baumgartner-Novak
612 S. Main Street, #104
Findlay, OH 45840
Counsel for Debtor

Douglas A. Dymarkowski
5431 Main Street
Sylvania, OH 43560
Trustee

Office of the United States Trustee
201 Superior Ave., East - Suite 441
Cleveland, OH 44114

/s/ John J. Hunter, Jr.

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	3226
CONNECTION TEL	914194220091
CONNECTION ID	
ST. TIME	03/03 12:17
USAGE T	07'41
PGS.	6
RESULT	OK

FAX TRANSMITTAL SHEET

TO: PATTI BAUMGARTNER-NOVAK, ESQ.

TELEFAX NUMBER: (419) 422-0091

FROM: JAMES J. REMMES, ESQ.

TOTAL NUMBER OF PAGES INCLUDING COVER PAGE: 6

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IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CONTACT ME AT (978) 684-5212 AS SOON AS POSSIBLE. THANK YOU.

BOGHOSIAN & HAWKINS

ATTORNEYS AT LAW

45 HAVERHILL STREET

ANDOVER, MASSACHUSETTS 01810

PHONE: (978) 475-4883

FAX: (978) 684-5253

Atty. Glenn Boghosian*

*Also admitted in NH

Direct Dial (978) 749-0461

Atty. Mary P. Hawkins*

*Also admitted in CT

Direct Dial (978) 749-0423

March 2, 2011

Patti Baumgartner – Novak, Esq.
62 S. Main Street
Heck Building #104
Findlay, Ohio 45840

Re: In Re: Jennifer Kubly
Debtor's Motion to Request Clear Title

Dear Attorney Baumgartner – Novak,


This office is corporate counsel for Lease and Rental Management Corp. d/b/a Auto Loan ("Auto Loan"). Auto Loan has a first priority lien on 2004 Chevrolet Venture, VIN# 1GNDX03E24D187722 ("the Vehicle") which is the subject of the above matter. Auto Loan objects to Ms. Kubly's motion. In order to avoid the additional expense of a formal objection, Auto Loan is willing to attempt to settle this matter.

Auto Loan asks that Ms. Kubly withdraw her motion to request clear title. The title currently in Ms. Kubly's possession omits Auto Loan's lien purely as a result of clerical error by the Ohio Bureau of Motor Vehicles. Auto Loan remains the first priority lienholder despite this harmless error.

As per our earlier conversation, I have included with this letter copies of the Vehicle's title history retrieved the Ohio BMV, the duplicate title, and application for certificate of title signed by Ms. Kubly, all of which list Auto Loan as lienholder.

If you have any questions feel free to contact me. My direct line is (978) 684-5212.

Sincerely,


James J. Remmes Jr., Esq.



Ohio Department Of Public Safety Online Vehicle/Watercraft Title Inquiry



Date: 2/23/2011

Search by
Title Number

Search by
Identification Number

Search Title by entering **Property Type** Identification #

E-mail any comments or concerns to Help Support.

The title information available from this web page is obtained from Ohio county title offices. Title information may not exist in the system and on this web page for titles issued prior to March 1993, because all Ohio county offices were not automated until March 1993. The information contained on this web page reports only detailed information for titles issued in the State of Ohio.

By making this information available, the Ohio Department of Public Safety and the Bureau of Motor Vehicles are not certifying that title information is accurate. Ohio Revised Code 4505.07 prohibits the filing of false information on title assignments and applications.

Ohio Revised Code 4501.27 prohibits the BMV from releasing private owner information.

For further assistance, contact the Title Section by telephone at (614) 752-7671 or email to: [Ask Titles A Question](#)

Property Information

Type:	VIN#:	Year:	Make:	Model:	Body Type:
Vehicle	1GNDX03E24D187722	2004	CHEVROLET	VENTURE	Station Wagon

Current Title Information

Title number:	Title status:	Owner name: PRIVATE OWNER		Number of owners:
3106101293	Active			1
Issue date: 12/08/2009	Title type:	Liens 1: AUTO LOAN		Lien 1 cancel date:
	Duplicate			
Control Number: 096158543		Liens 2:		Lien 2 cancel date:
Mileage:	Mileage		Brands 1:	Brands 2:
77606	brand: Actual			Brands 3:
Total Purchase Price:	Resides in County: 32			
9365				

History

Title Number	Issue Date	Title Type	Title Status	Inactive Reason Type	Mileage	Mileage brand	Mileage justify	Owner Name
6900244255	08/06/2009	Original	Inactive	Transferred to Duplicate	77606	Actual		PRIVATE OWNER
6900244253	08/06/2009	Original	Inactive	Transferred Within County	77606	Actual		CAR MART AUTO

								GROUP INC
6900241911	06/01/2009	Original	Inactive	Transferred Within County	76634	Actual		CAR MART AUTO GROUP INC
8700582640	06/30/2004	Original	Inactive	Transferred Out of County	13468	Actual		PRIVATE OWNER
8700580369	06/16/2004	Original	Inactive	Transferred Within County	13228	Actual		GRAFF AUTO MALL INC



DEPARTMENT OF PUBLIC SAFETY
BUREAU OF MOTOR VEHICLES

APPLICATION(S) FOR CERTIFICATE OF TITLE TO A MOTOR VEHICLE

(Type or Print in Ink)

CHECK TYPE OF APPLICATION(S) Fee of \$5.00 for failure to apply for title within 30 days of assignment.

COUNTY <u>HANCOCK</u>	
PRIMARY APPLICANT'S NAME <u>JENNIFER L. KUBLY</u>	SSN/EIN <u>272-90-8293</u>
PRIMARY APPLICANT'S ADDRESS <u>9687 JADLOS DR., FINDLAY, OH 45840</u>	
SECONDARY APPLICANT'S NAME	SSN/EIN
SECONDARY APPLICANT'S ADDRESS	

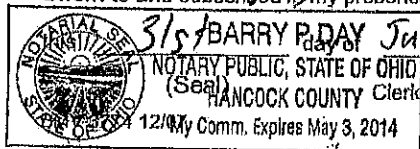
Hereby declares under penalty of perjury that he/she is the lawful (owner/purchaser/lien holder) of the following described motor vehicle and hereby makes application for the following:

<input checked="" type="checkbox"/> ORIGINAL CERTIFICATE OF TITLE	Evidence of ownership <u>MCO, Previous Title No., Registration, etc.</u>	
Applicant acquired said motor vehicle by (state how acquired) <u>Purchased from dealer</u>		
from: Name of Previous Owner <u>CAR MART AUTO GROUP INC</u>		
Address of Previous Owner <u>10270 US 224 W FINDLAY, OH 45840</u>		
The following is a full statement of all liens on said motor vehicle. If no lien state "none", if more than one lien, attach statement of all additional liens. <u>45 HAVERHILL STREET</u> Lien Holder <u>AUTO LOAN</u> /E Code # <u> </u> Address <u>ANDOVER, MA 01810</u>		
<input type="checkbox"/> DUPLICATE CERTIFICATE OF TITLE		
Applicant states that Certificate of Title Number <u> </u> has been <u> </u> ; that said motor vehicle has not been sold or disposed of except as stated below: <u>lost, stolen, destroyed</u>		
The vehicle is in the possession of <u> </u> residing at <u> </u> and that if said Certificate of Title be hereby recovered by this applicant he will deliver same to the Clerk of Courts for cancellation.		
The following is a full statement of all liens on said motor vehicle. If no lien state "none", if more than one lien, attach statement of all additional liens. Lien Holder <u> </u> /E Code # <u> </u> Address <u> </u>		
<input type="checkbox"/> REPLACEMENT CERTIFICATE OF TITLE for Certificate of Title Number <u> </u>		
<input type="checkbox"/> MEMORANDUM CERTIFICATE OF TITLE for Certificate of Title Number <u> </u>		
<input type="checkbox"/> SALVAGE CERTIFICATE OF TITLE		
Applicant states that the original Certificate of Title Number <u> </u> has been surrendered to the Clerk of Courts.		
YEAR <u>2004</u>	VIN <u>1GNDX03E24D187722</u>	MODEL <u>VENTURE</u>
BODY TYPE <u>5DR</u>	MAKE <u>CHEVROLET</u>	CONVERSION
PURCHASE PRICE \$ <u>9,365.00</u>	TRADE IN AMOUNT \$ <u>500.00</u>	SALES/USE TAX \$ <u>632.14</u>
VENDOR'S NUMBER <u> </u>	PERMIT NUMBER <u>UD016309</u>	SALES CREDIT AMOUNT \$ <u> </u>
CONDITION OF VEHICLE (Check only one) <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR <input type="checkbox"/> WRECKED		
TAX EXEMPTION: <input type="checkbox"/> YES REASON <u> </u>		

Warning: You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Ohio Revised Code and is punishable by six months imprisonment and a fine of up to one thousand dollars or both. All transfers are audited by the Department of Taxation. The seller and buyer must provide any information requested by the Department of Taxation. The buyer may be assessed any additional tax found to be due.

Applicant's signature Jennifer L. Kubly

Sworn to and subscribed in my presence by Jennifer L. Kubly



Notary Public, State of Ohio
Hancock County Clerk Deputy of Clerk of Courts Notary X [Signature]

ISSUING OFFICE PUTNAM
RECORDING OFFICE HANCOCK

STATE OF OHIO
ORIGINAL

No. 89 0024 4283

ISSUE DATE
08/06/2008

IDENTIFICATION NUMBER
1GNDX03E240187722
COMMENTS

ACQUISITION
\$9,365.00

YEAR MAKE MODEL DESCRIPTION
2004 CHEV CHEVROLET
BODY TYPE MODEL MODEL DESCRIPTION
SW VTN VENTURE

COMMISSION

1%
\$932.14

SEALING
77.500

ISSUANCE
OH 8900244283

UNKNOWN ACTUAL

OWNER

JENNIFER L. KUBLY

8617 JADLOS DRIVE
FINDLAY, OH 45840

FINANCIAL OFFICE

CAR MART AUTO GROUP INC.

10270 US 224 W

FINDLAY, OH 45840-0000

FROM 12/26/2007

DATE OF LEND

62/03/2008

AUTO LOAN

2X027721

100016308

45 HAYVERHILL STREET
ANDOVER, MA 01810

LIEN DISCHARGE

LIEN DISCHARGE

Lienholder

Lienholder

By _____
Authorized signatory

By _____
Authorized signatory

CLERK OF COURTS LIEN CANCELLATION

CLERK OF COURTS LIEN CANCELLATION

By _____
County Clerk

By _____
County Clerk

WITNESS MY HAND AND OFFICIAL SEAL THIS 6th DAY OF AUGUST 2008

7098881106



* 2 0 9 8 8 1 1 0 6 *

7098881106

Teresa J. Hammers

TERESA J. HAMMERS
CLERK OF COURTS

EXH
138

OHIO CERTIFICATE OF TITLE

ISSUING CITY: HAMILTON
RESIDENT CITY: HANCOCK
DUPLICATE

STATE OF OHIO
DUPLICATE

No. 31 0610 1293
DUPLICATE
ISSUE DATE: 12/06/2009

IDENTIFICATION NUMBER:
1GNDX03E24D187722

COMMENTS:

SALES PRICE:
\$9,065.00

YEAR: 2004 MAKE: CHEV
MODEL: CHEVROLET

BODY TYPE: SUV MODEL DESCRIPTION: VTR VENTURE

SALES TAX: \$632.14
MILEAGE: 75606
VIN: OH 6900244266

ALSO BRAND: ACTUAL

BRANDS:
OWNER:
JENNIFER L. KUBLY

9687 JADLOS DRIVE
FINDLAY OH 46840

PREVIOUS OWNERS:
CAR MART AUTO GROUP INC

10370 US 224 W
FINDLAY OH 46840-0000

FIRST LENDER: DATE OF LEND: 06/06/2009
AUTO LOAN

45 HAVERHILL STREET
ANDOVER MA 01910

LENDER DISCHARGE:

LENDER DISCHARGE:

Signature:

Signature:

Authorized Signature:
CLERK OF COURTS JOHN CAMPBELL

Authorized Signature:
CLERK OF COURTS LISA CAMPBELL

Deputy Clerk:

Deputy Clerk:

Deputy Clerk:

Deputy Clerk:

WITNESS MY HAND AND OFFICIAL SEAL THIS 31ST DAY OF DECEMBER 2009
7.096158543



* 2 0 9 6 1 5 8 5 4 3 *

7.096158543

PATRICIA M. CLANCY
CLERK OF COURTS

FRIDAY
P.M.

DO NOT ACCEPT TITLE SHOWING ANY ERASURES, ALTERATIONS OR MUTILATIONS.